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STATE OF ARIZONA

DEPARTMENT OF INSURANCE

JAN 2 8 1997

DEPT. OF INSURANCE

In the Matter of: Docket No. 96A-237-INS LAWRENCE H. McKINNEY, **ORDER** Petitioner.

On January 17, 1997, the Office of Administrative Hearings, through Administrative Law Judge Allen W. Reed, submitted "Recommended Decision of Administrative Law Judge" ("Recommended Decision"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Decision and enters the following order:

- The recommended findings of fact and conclusions of law are adopted. 1.
- 2. The denial of the application for individual insurance license of Lawrence McKinney and the revocation of the conditional license issued to Lawrence McKinney are affirmed and the appeal of Lawrence McKinney is dismissed.

NOTIFICATION OF RIGHTS

The aggrieved party may request a rehearing with respect to this Order by filing a written petition with the Office of Administrative Hearings within 30 days of the date of this Order, setting forth the basis for such relief pursuant to A.A.C. R20-6-114(B).

1	The final decision of the Director may be appealed to the Superior Court of Maricopa
2	County for judicial review pursuant to A.R.S. § 20-166.
3	EFFECTIVE this <u>21</u> day of January, 1997.
4	
5	John a Siere
6	John A. Greene Director of Insurance
7	
8	A copy of the foregoing mailed this 28th day of January, 1997
9	Charles R. Cohen, Deputy Director John Gagne, Assistant Director
10	Catherine O'Neil, Assistant Director Scott Greenberg, Business Administrator
11	Maureen Catalioto, Supervisor Department of Insurance
12	2910 N. 44th Street, Suite 210 Phoenix, AZ 85018
13	
14	Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, AZ 85007
15	Michael J. De La Cruz
16	Assistant Attorney General
17	1275 Wet Washington Phoenix, AZ 85012
18	Lawrence H. McKinney
19	1050 West 8th Avenue, #107 Mesa, AZ 85210
20	Voll Pin
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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 96A-237-INS

LAWRENCE H. McKINNEY,

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE

Petitioner.

HEARING: January 10, 1997

APPEARANCES:

Michael De La Cruz, Assistant Attorney General for the State.

The Respondent failed to appear.

ADMINISTRATIVE LAW JUDGE: Allen W. Reed

FINDINGS OF FACT

- 1. On June 21, 1996, Lawrence Henry McKinney (Applicant), submitted an application to the Arizona Department of Insurance (Department) for an individual life agent license. The Applicant was issued a conditional license in connection with the application upon his execution of an Agreement for Conditional License.
- 2. The Applicant answered "yes" to questions (F)(1) which ask in pertinent part if he had ever been convicted of a misdemeanor, and (F)(3) which asks in pertinent part if he had ever been arrested charged, tried or been subject of an investigation for any felony or misdemeanor. The Applicant disclosed a 1995 arrest for Driving Under the Influence (DUI) which charge was reduced to Reckless Driving, for which he was convicted and fined.
- 3. The Applicant did not disclose an October 19, 1994 conviction by plea agreement in Scottsdale City Court, <u>State v. Lawrence McKinney</u>, Docket No. 94-0687, CR 94-11650, for violations of A.R.S. §§13-2409(A)(1), Disorderly Conduct, 13-1201(A), Endangerment, and 13-1602(A)(1), Reckless Damage to Property. The multiple

Office of Administrative Hearings 1700 West Washington, Suite 602 Phoenix, Arizona 85007 (602) 542-9826

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convictions were based on an arrest on or about July 8, 1994 involving a domestic violence issue. He was fined \$250.00, given 24 months of unsupervised probation and required to complete what appears to be a domestic violence program.

- 4. On September 19, 1996, the Department sent the Applicant a letter requesting a notarized explanation, additional information and certified documentation regarding the undisclosed conviction.
- 5. On November 7, 1996, the Department revoked the Applicant's Conditional License and denied his application for a permanent license.
- 6. On November 18, 1996, the Department received an unsigned printed statement which asserted the undisclosed matter should have been dropped because the Applicant went to court and agreed to a program for anger control.

CONCLUSIONS OF LAW

- 1. The Director has jurisdiction of this matter pursuant to A.R.S. §20-161.
- 2. The Applicant's failure to disclose the arrest and conviction referenced in paragraph three of the above Findings of Fact is a material misrepresentation or fraud in the application for the insurance license as set forth in A.R.S. §20-290(B)(1), and the Director may refuse to accept the application or issue any license for such fraud or misrepresentation.
- 3. A.R.S. §41-1065 provides that at a hearing on denial of a license or permit, an applicant has the burden of proof and shall be the moving party. Since the Applicant was not present, no evidence was presented in his behalf and the Applicant has not met his burden.

RECOMMENDED ORDER

IT IS HEREBY RECOMMENDED that the denial of the Application for Individual Insurance License of Lawrence McKinney and the revocation of the Conditional License

issued to Lawrence McKinney be Affirmed and the appeal of Lawrence McKinney be Dismissed.

Done this day, January 17, 1997.

ALLEN W. REED

Administrative Law Judge

Original transmitted by mail this May of January, 1997, to:

John Greene, Director ATTN: Curvey Burton Department of Insurance 2910 North 44th Street, #210 Phoenix, AZ 85018-7256

By Chris Crawford